IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6063 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MANIBEN WD/O HARIBHAI BHIL & 4 - Petitioner(s)

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION & 2 - Respondent(s)

==========

Appearance :
MR AR SHAIKH for Petitioner(s) : 1 - 5.(MR RAVI R TRIPATHI) for Petitioner(s) : 1 - 5.
NOTICE SERVED for Respondent(s) : 1, 3,
MR YOGESH S LAKHANI for Respondent(s) : 2,
==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 01/12/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the respective petitioners who were having their cabins / stalls for dealing in

articles, such as, Pan-biri cigarette, green fruit, newspaper and cutlery have prayed for an appropriate writ, direction and / or order quashing and setting aside the action of the respondent authorities of closure of the business of the petitioners and further prayer is also made directing them to allow to carry on their business on such terms and conditions on which they are allowed to continue for all these years.

2. It appears that the S.T. Corporation has constructed new bus station and pakka stalls are constructed in the new bus station and those pakka stalls are given by inviting tenders for different items. Affidavit-in-reply is filed on behalf of the respondent. It is submitted by Shri A.M.Dagali, learned advocate appearing on behalf of the respondent authorities that new bus station is constructed at the place of old bus station and at the new bus station stalls are allotted to the eligible persons who were the highest bidders as per the tenders invited for the purpose. It is also

submitted that in the old bus station there was only refreshment room / canteen allotted to one licencee and there was no other stalls available in the old bus station. It is further submitted that now in the new bus station over and above the refreshment rooms / canteen, five new stalls are constructed and the same to be allotted to the highest bidders. It is also further submitted that as per the policy decision taken by the Corporation only those hawkers / licencees are to be continued who are dealing in the articles for which no stalls have been constructed in the new bus station. It is also averred in the reply that the petitioners are dealing in the articles like cutlery, pan, pan-cigarette, green fruit and newspaper and for all these articles, the pakka stalls are constructed in the new bus station and therefore, the hawkers licencees who have preferred the present Special Civil Application cannot be continued. It is also further averred in the reply that the some of the petitioners had also offered their bids while participating in the tenders process but they were not the highest bidders and

therefore, stalls could not be allotted to them.

3. Considering the affidavit-in-reply and considering the fact that new bus station was already constructed and as per the policy decision taken by the corporation only those hawkers licencees were to be continued who are not dealing in the articles for which no stalls were constructed in the new bus station. In the aforesaid facts and circumstances, the present Special Civil Application is required to be dismissed as it cannot be said that the decision and / or policy decision of the respondents in not renewing the licence in favour of the petitioners is any way illegal or arbitrary which requires any interference by this Court in exercise of the powers under Article 226 of the Constitution of India.

4. It is also required to be noted that pursuant to the orders dated 8.10.1996, the petitioners were required to make representation which the petitioners did make and it is reported that the representation of the petitioners came to be turned down vide

communication dated 1.11.1996 and the petitioners were also communicated accordingly.

5. For the reasons stated above, there is no substance in the present Special Civil Application and the same requires to be rejected and is accordingly rejected.

6. Rule is discharged. However, there will be no order as to costs. Ad-interim relief, if any, granted by this Court stands vacated forthwith.

[M.R.Shah, J.]

=kailash=